

UNITED STATES DISTRICT COURT

for the

District of Nebraska

SEALED

United States of America)

v.)

John Doe)

using the name A.D.)

Case No. 8:19MJ268

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of Feb. 26, 2014, through Feb. 13, 2019, in the county of Douglas in the
District of Nebraska, the defendant(s) violated:

Code Section

42 U.S.C. § 408(a)(7)(B)

Offense Description

From on or about February 26, 2014, through at least February 13, 2019, in the District of Nebraska, the defendant, John Doe, using the name A.D., defendant herein, with intent to deceive, falsely represented a number to be the Social Security account number assigned by the Commissioner of Social Security to him, when in fact such number, ending in XXX-XX-3403, is not the Social Security account number assigned by the commissioner of Social Security to him, for purposes of obtaining any benefit to which he is not entitled and for any other purpose, to wit: to satisfy a requirement of section 274A(b) of the Immigration and Nationality Act.

This criminal complaint is based on these facts:

See Attached Affidavit

☒ Continued on the attached sheet.

Complainant's signature

Todd Schoenberger, S.A., HSI

Printed name and title

☐ Sworn to before me and signed in my presence.☒ Sworn to before me by telephone or other reliable electronic means.Date: 6-4-19City and state: Omaha, Nebraska

Judge's signature

SUSAN M. BAZIS, U.S. Magistrate Judge

Printed name and title

UNITED STATE OF AMERICA)
DISTRICT OF NEBRASKA)

AFFIDAVIT OF TODD SCHOENBERGER

Your Affiant, Todd Schoenberger, being duly sworn, does depose and state:

1. I, Todd Schoenberger, am a Special Agent with the United States Department of Homeland Security, Immigration and Customs Enforcement, Homeland Security Investigations (hereinafter "HSI"). Your affiant has been employed with HSI since July 2010. Prior to this, your affiant was employed as a Postal Inspector with the United States Postal Inspection Service from May 2004 to July 2010. HSI agents are authorized to investigate violations found in Title 8, 18, 19 (Customs), and Title 42 of the United States Code.
2. Your affiant is aware of the information set forth below through personal investigation, as well as, discussions with other HSI investigators, and the Nebraska State Patrol (NSP).
3. On February 13, 2019, an individual residing in Watsonville, CA, with the initials A.D. completed an Identity Theft report with Nebraska State Patrol (NSP) Sergeant Christopher Apley (Badge #334). According to the report, File NSP19001949, A.D. stated that he is employed by a company called "Growers Ice Company" in Salinas, CA, and has been so employed for the past six years. A.D. stated that his company has been using Automated Data Processing, Inc. (ADP) payroll service for payroll processing. A.D. stated that, when he logged in to the ADP online system, he found that his name and social security number had also been used on paychecks paid by Mulhall's

Nursery (3615 N. 120th St., Omaha, NE 68164) and Propak Logistics, Inc. (P.O. Box 1239, Fort Smith, AR 72902).

4. Sgt. Apley conducted a records check within the Nebraska Criminal Justice Information System (NCJIS) and found that A.D.'s social security number had been utilized to record payroll tax withholdings at no less than eight different businesses in Nebraska since the beginning of 2018.
5. On March 5, 2019, your affiant reviewed form I-9, Employment Eligibility Verification, which was completed for employment at Mulhall's Nursery, Inc. in Omaha, NE. Immigration and Nationality Act section 274A(b) refers to the Employment Verification System, and requires an employer to verify that an individual seeking employment is not an unauthorized alien by examining certain identification documents provided by the individual seeking employment. The documents provided by the individual seeking employment are recorded on the I-9. The I-9 was filled out in A.D.'s name, signed and dated on February 26, 2014. On the I-9, John DOE attested that he was a citizen or national of the United States by checking the appropriate box on the form. John DOE presented a Social Security card, bearing the number xxx-xx-3403, and bearing the name with the initials A.D. John DOE also presented a State of Colorado Identification Card, bearing number 09-xxx-5361, with the name of A.D. Mulhall's Nursery, Inc. also provided your affiant with a copy of the Department of Homeland Security E-Verify Report dated February 26, 2014, Case Verification Number: 2014057114056AK related to John DOE's employment application. This document verifies that

John DOE utilized A.D.'s true and accurate personal information to obtain employment with Mulhall's Nursery, Inc., and further verifies that John DOE needed to utilize said information in order to receive pay from Mulhall's Nursery, Inc.


6. Also included in the information provided by Mulhall's Nursery, Inc. was a copy of John DOE's W-2 for 2018, which includes A.D.'s name and social security number. The W-2 reflects total wages paid by Mulhall's Nursery, Inc. of \$35,211.55, and total state and federal taxes withheld as \$3,875.56. Additionally, included in Sgt. Apley's report is a recent payroll check stub issued to John DOE by Mulhall's Nursery, Inc. through Automatic Data Processing, Inc. (ADP) payroll services, dated February 13, 2019. The check stub reflects total wages of \$1,082.30, and total state and federal taxes withheld as \$95.42. The check stub also shows that a direct deposit was not conducted, so a physical paycheck and stub would have been issued and delivered to John DOE, which showed that taxes were being withheld under the social security number which he provided at the time of hire.
7. On May 31, 2019, your affiant spoke with Doug Pederson, the Human Resources Manager for Mulhall's Nursery, Inc. regarding John DOE's employment at the company. Mr. Pederson advised that, according to personnel records, John DOE has been continuously employed at Mulhall's Nursery, Inc. since February 26, 2014, and the W-4 and I-9 dated on February 26, 2014, containing the personal information of A.D., are the most recently dated employment authorization documents Mulhall's Nursery, Inc. has for

John DOE. Your affiant asked Mr. Pederson whether W-2s were provided to employees physically at the business. He advised that W-2s were produced by ADP and mailed directly to employees. He further advised that Mulhall's Nursery, Inc. would be notified of any W-2s that were returned as undeliverable, and that John DOE's W-2 was not returned.

8. Your Affiant verified with the Social Security Administration the Social Security number xxx-xx-3403 is registered to an individual with a name carrying the initials A.D.
9. Your Affiant reviewed the photograph on State of Colorado Identification Card 09-xxx-5361 provided to Mulhall's Nursery, Inc. and compared it to the photograph within the California Department of Motor Vehicles (DMV) records for California Driver's License Dxxxxx14 in the name of A.D. The photographs do not appear to be the same individual. Additionally, your affiant conducted a search in the National Law Enforcement Telecommunications System, and determined that Colorado Identification Card 09-xxx-5361 was not lawfully issued to the name and address reflected on the identification card presented to Mulhall's Nursery, Inc.
10. It has been your Affiant's prior investigative experience that undocumented alien employees at similar businesses procure false identification documents to falsely claim U.S. Citizenship in order to gain employment in the United States.
11. Based on these facts, your Affiant has reason to believe that on February 26, 2014, John DOE, using the name A.D., presented fraudulent identification

documents to satisfy the requirements of form I-9 to obtain employment, which included a Social Security card, bearing the number xxx-xx-3403, and bearing the name with the initials A.D. Further your affiant has reason to believe that since at least February 26, 2014 through at least February 13, 2019, John DOE has continued to falsely represent the Social Security number, bearing the number xxx-xx-3403, to be his for the purposes of continued employment and the receipt of wages, in violation of 42 United States Code, Section 408(a)(7)(B).

I declare under the penalty of perjury that the foregoing facts and circumstances are true and correct to the best of my knowledge and belief.



Todd Schoenberger
Special Agent
Homeland Security Investigations

Sworn to before me and subscribed in my
Presence this 4 day of June, 2019.



SUSAN M. BAZIS
United States Magistrate Judge